

**Not for Publication**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

**MERCK & CO., INC., *et al.*,**

**Plaintiffs,**

**v.**

**MERCK KGAA,**

**Defendant.**

**Civil Action No.: 16-0266 (ES) (MAH)**

**ORDER**

**SALAS, DISTRICT JUDGE**

This matter comes before the Court on Defendant Merck KGaA's motion for partial summary judgment pursuant to Federal Rule of Civil Procedure 56 (D.E. No. 186), on Plaintiffs Merck & Co., Inc. and Merck Sharp & Dohme Corp.'s claims for (i) common law breach of contract (Count Ten), (ii) false advertising under the Lanham Act, 15 U.S.C. § 1125(a)(1)(B) (Count Eight), (iii) deceptive trade practices under New Jersey law, N.J.S.A. § 56:8-2 (Count Nine), and (iv) trademark dilution under both the Lanham Act, 15 U.S.C. § 1125(c) (Count Three), and New Jersey law, N.J.S.A. § 56:3-13.20 (Count Five), (D.E. No. 1 ("Complaint" or "Compl.")). Having considered the parties' submissions, the Court decides the motion without oral argument. *See* Fed. R. Civ. P. 78(b); L. Civ. R. 78.1(b). For the reasons set forth in the accompanying Opinion,

IT IS on this 30th day of September 2022,

**ORDERED** that Defendant's motion (D.E. No. 186) is **GRANTED-in-part** and **DENIED-in-part**; and it is further

**ORDERED** that Defendant's motion with respect to Count Nine for deceptive trade

practices under N.J.S.A. § 56:8-2 is **GRANTED**; and it is further

**ORDERED** that Defendant's motion is otherwise **DENIED**; and it is further

**ORDERED** that the Clerk of the Court maintain the Court's Opinion under temporary seal, pending further Order of the Court; and it is further

**ORDERED** that the parties submit joint proposed redactions to the Court's Opinion by October 31, 2022.

/s/ Esther Salas

**Hon. Esther Salas, U.S.D.J.**